

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

PAUL S. McCARTNEY, *et al.*,

Plaintiffs,

vs.

Civil Action No. 3:11-cv-305

DARDEN RESTAURANTS, INC.,

Judge Timothy S. Black

Defendant.

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**ORDER OF DISMISSAL**

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This civil action is before the Court on Plaintiffs' motion for voluntary dismissal pursuant to Fed. R. Civ. P. 41(B)(2). Defendant has filed an answer, and therefore Plaintiffs must seek Court approval to voluntarily dismiss the action without prejudice. At this point in the litigation, "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(B)(2).

Plaintiffs seek to dismiss this civil action and refile in the Common Pleas Court of Clark County, Ohio, to name the proper Defendant and lower their demand to include a total claim of less than \$75,000.00. Accordingly, this Court considers Plaintiffs' request "proper."

Therefore, it is **ORDERED** that this action is hereby **DISMISSED WITHOUT PREJUDICE**.

Date: 9/26/11

Timothy S. Black  
Timothy S. Black  
United States District Judge